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By ECF

September 23, 2022

Hon. Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *XL Specialty Ins. Co. v. Timothy Daileader*, No. 1:22-cv-04045-AT

Dear Judge Torres:

This firm represents Defendant Timothy Daileader in the above-referenced action. Pursuant to Your Honor's Order dated September 2, 2022, we respectfully submit this joint letter with Plaintiff XL Specialty Insurance Company ("XL Specialty") to update the Court regarding the status of mediation efforts.

Mr. Daileader has filed a motion for a preliminary injunction that is fully briefed and currently pending. The parties have discussed both the Southern District of New York's Mediation Program and private mediation. The parties have agreed to request that the Court refer them to the Mediation Program. Regarding private mediation, the parties have agreed to postpone engaging in private mediation pending the Court's decision on the preliminary injunction, but they remain open to further discuss its possibility.

Mr. Daileader is open to a mediated settlement, but notes that it remains his position that XL Specialty's failure to advance defense costs in the underlying adversary proceedings is causing irreparable harm to his defense for the reasons stated in his prior submissions. XL Specialty's position is that Mr. Daileader is not irreparably harmed for the reasons stated in its prior submissions.

Respectfully,

/s/ *Raymond A Mascia, Jr.*

Raymond A. Mascia, Jr.

cc: All Counsel of Record (via ECF)